

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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MICHAEL FOLEY,

Case No. 2:15-cv-00765-JCM-PAL

Plaintiff,

ORDER

v.

(IFP Application – Dkt. #1)

K. BOURNE, et al.,

(Mtn Enlarge Time – Dkt. #2)

Defendants.

This matter is before the Court on Plaintiff Michael Foley's Application to Proceed *In Forma Pauperis* (Dkt. #1) and Ex Parte Motion to Enlarge Time and Expedite Process (Dkt. #2), both filed April 24, 2015. This proceeding was referred to the undersigned pursuant to 28 U.S.C. § 636(a) and Local Rules LR IB 1-3 and 1-9.

Plaintiff is a prisoner proceeding in this action *pro se*, has requested authority pursuant to 28 U.S.C. § 1915 to proceed *in forma pauperis*, and submitted a Complaint (Dkt. #1-1). Local Rule LSR 1-2 and § 1915 specifically require three items be submitted to this Court with a prisoner's application to proceed *in forma pauperis*: (1) a signed financial certificate by an authorized officer of the institution in which he or she is incarcerated,¹ (2) a copy of his or her inmate trust account statement for the six-month period prior to filing,² and (3) a signed financial

¹ Local Rule LSR 1-2 provides:

An application to proceed *in forma pauperis* received from an incarcerated or institutionalized person shall be accompanied by a certificate from the institution certifying the amount of funds currently held in the applicant's trust account at the institution and the net deposits in the applicant's account for the six (6) months preceding the submission of the application. If the applicant has been at the institution for less than six (6) months, the certificate shall show the account's activity for such period.

² 28 U.S.C. § 1915(a)(2) states:

A prisoner seeking to bring a civil action or appeal a judgment in a civil action or proceeding without prepayment of fees or security therefor, in addition to filing the affidavit filed under paragraph (1), shall submit a certified copy of the trust fund account statement (or institutional equivalent) for the prisoner for the 6-month period immediately preceding the filing of the

1 affidavit showing an inability to prepay fees and costs or give security for them.³ Plaintiff did
 2 not submit the Court's form Application for incarcerated litigants but, instead, hand-wrote a
 3 request to proceed *in forma pauperis* that did not disclose the required information. As a result,
 4 the Court cannot determine whether Plaintiff is eligible to proceed *in forma pauperis*.

5 In addition, Plaintiff's Ex Parte Motion to Enlarge Time and Expedite Process (Dkt. #2)
 6 asks this Court to "enlarge the time that may be required of him to act or respond in this action"
 7 pursuant to Rule 1 of the Federal Rules of Civil Procedure. Rule 1 states that the Federal Rules
 8 of Civil Procedure "should be construed and administered to secure the just, speedy, and
 9 inexpensive determination of every action and proceeding." This rule does not support an
 10 unspecified enlargement of time or suspend the application of other civil procedure rules
 11 governing case deadlines. Should Plaintiff deem an enlargement of time necessary to comply
 12 with a specific deadline, he may move the Court for an extension prior to the deadline's
 13 expiration.

14 Accordingly,

15 **IT IS ORDERED:**

- 16 1. Plaintiff's Application to Proceed *In Forma Pauperis* (Dkt. #1) is DENIED
 17 WITHOUT PREJUDICE.
- 18 2. The Clerk of Court shall mail Plaintiff a blank Application to Proceed *In Forma*
 19 *Pauperis* for incarcerated litigants with instructions.
- 20 3. Plaintiff shall have until **July 13, 2015**, in which to file a completed Application to
 21 Proceed *In Forma Pauperis*.
- 22 4. Alternatively, Plaintiff shall pay the filing fee of four hundred dollars (\$400.00),
 23 accompanied by a copy of this Order, on or before **July 13, 2015**.

24 *complaint* or notice of appeal, obtained from the appropriate official of each prison at which the
 25 prisoner is or was confined.
 (emphasis added).

26 ³ 28 U.S.C. § 1915(a)(2) states:

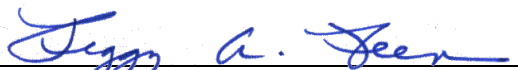
27 [A]ny court of the United States may authorize the commencement, prosecution or defense of any
 28 suit, action or proceeding, civil or criminal, or appeal therein, without prepayment of fees or
 security therefor, by a person who submits an affidavit that includes a statement of all assets such
 prisoner possesses that the person is unable to pay such fees or give security therefor.

1 5. Plaintiff's failure to comply with this Order by: (a) submitting an Application to
2 Proceed *In Forma Pauperis*, or (b) paying the filing fee, before the deadline will
3 result in a recommendation to the District Judge that this case be dismissed.

4 6. The Clerk of Court shall retain Plaintiff's Complaint (Dkt. #1-1).

5 7. Plaintiff's Ex Parte Motion to Enlarge Time and Expedite Process (Dkt. #2) is
6 DENIED.

7 Dated this 15th day of June, 2015.

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10 PEGGY A. LEEN
11 UNITED STATES MAGISTRATE JUDGE
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